

**RUMSON ZONING BOARD OF ADJUSTMENT
OCTOBER 21, 2014
MINUTES**

Chairman Conklin called the regular meeting to order at 7:30 p.m. with the Pledge of Allegiance. The Roll was called with the following members present: Conklin, Brodsky, Wood, Seaman, Blum, Thompson, Duddy, Cottrell. Also present: Bernard Reilly (Board Attorney), Fred Andre (Zoning Officer), Bonnie Heard (T&M Assoc.), State Shorthand.

The requirements of the Open Public Meetings Act were stated as met.

Mr. Andre was sworn in at this time.

Prestige Equities LLC, 59-62 Carton St.

Chairman Conklin announced that this application will be carried to the November 18, 2014, meeting. The applicant will renotice for that meeting.

Resolutions

- 1. Oceanic Free Library, 109 Avenue of Two Rivers** – Approval for renovations.
Mr. Thompson moved to adopt the resolution, and Mr. Cottrell seconded.
Roll Call Vote: Ayes (Eligible) – Conklin, Thompson, Cottrell, Blum, Duddy, wood
Nays – None. Motion carried.

- 2. Denis & Trista Higgins, 20 Meadow Brook Ave** – Approval to elevate residence and construct new one-story addition.
Mr. Cottrell moved to adopt the resolution, and Mr. Thompson seconded.
Roll Call Vote: Ayes (Eligible) – Cottrell, Conklin, Thompson, Duddy, Wood
Nays – None. Motion carried.

- 3. Mikhall & Michelle Kutsak, 27 North Ward Ave** – Approval to raze existing residence and construct new single-family residence, in-ground pool and cabana, storage building and recreation facility.
Dr. Wood moved to approve the resolution, and Mr. Cottrell seconded.
Roll Call Vote: Ayes (Eligible) – Conklin, Cottrell, Thompson, Duddy, wood
Nays – None. Motion carried.

Approval of Minutes

Mr. Thompson moved to approve the minutes from the August 19, 2014, meeting, and Mr. Duddy seconded. Voice Vote: Ayes, unanimous.

Mr. Brodsky joined the meeting at this time (7:40 p.m.).

Jennifer Scandariato, 10 Church St. (Continued Application)

Ms. Scandariato, still under oath from a prior meeting, appeared on behalf of the application, along with Brian Berzinskis, her architect, who was sworn in at this time. His qualifications were accepted by the Board.

Ms Scandariato explained the revised height to her addition, noting that the plans now show the height of the structure, but no other modifications were included. Mr. Berzinskis stated that the previous plan referenced the prior structure, but this plan now includes surrounding properties and the height of the proposed addition. The rear addition is located adjacent to the detached garages on the adjacent property in the rear.

Chairman Conklin asked about the setback from the property line (10') as it may affect light and air. Mr. Berzinskis stated that the existing structure is approximately 12' high. They will be filling in the back corner, and the total length of 39' will now be two stories high.

There were no questions or comments from the public.

Mr. Brodsky feels it is adding more space close to the property line, but it is not going up the full height of the existing structure. Also, it seems to be directly next to garages, as opposed to any living space on adjacent properties. He does not think it is being over done. It appears to be a practical addition, consistent with the style of the neighborhood. Most of the homes in this area have close setback issues.

Chairman Conklin does not hear any justification for the impact on the nearby properties.

Mr. Duddy agrees with Mr. Brodsky's comments and also does not think it is over done. They are adding 400 total square feet, which he does not think is massive. It is backing up to a garage in the corner of the two adjacent lots. He would support the application.

Mr. Cottrell has looked at the property and agrees that it is not a huge amount of coverage and still provides light and air on the back and sides. He would support the application.

Dr. Wood agreed.

Mr. Blum moved to approve the application, and Mr. Cottrell seconded.

Roll Call Vote: Ayes – Seaman, Blum, Thompson, Duddy, Cottrell, Wood, Brodsky
Nays – Conklin

Motion carried.

Petcon Builders, LLC, 129 Rumson Rd (Continued Application)

Mr. Cottrell will not sit in on this application.

Michael Holzaple, attorney, appeared again on this continued application.

Ms. Heard was sworn in at this time.

Mr. Holzaple reviewed that the Board had some questions after the last meeting regarding the trees, grading, and storm water management. They have their engineer, planner, and architect present this evening to testify to these issues. They only received the T&M letter yesterday.

They have produced a complete tree count on the revised plan. There are 17 trees proposed to be removed – most of which are dead or dying. A Sweet Gum tree on the southwest corner was

proposed to be removed to accommodate the pool; however, this is no longer necessary, since they are now proposing to move the pool. They will replace whatever they need to replace, according to the tree mitigation plan. The pool will now be farther north on the lot. The two trees next to the pool are proposed to be removed. These are not specimen trees. The plans for the dwelling and cabana remain the same. Only the location of the pool is changed.

Mr. Blum questioned the two trees to be removed, and it was noted that William Brooks, Borough Forester, will testify to this issue.

Charles Bell, Planner, and Chong Yin, Engineer, were sworn in at this time. Their credentials were accepted by the Board. The 10/17/14 letter from T&M Assoc. was reviewed by the witnesses. Mr. Holzaple reviewed some of the points raised in this letter:

- Disturbing more than one acre qualifies them as a major development. They would stipulate that they comply with the major development conditions under the ordinance.
- Mr. Bell described the changes to the plot plan from the last meeting regarding grading:
 - Pool and cabana were rotated counter clockwise to the south property line, moving it away from the Sweet Gum tree;
 - The property drains from the northwest corner to the southeast corner;
 - The property to the south of their lot has been raised with the construction of a new dwelling. The change in the grading caused a flooding condition on their property. To alleviate this, a pipe was installed to handle the drainage;
 - The slope of the property will be the same as exists after their construction.;
 - The grading pattern will not change with their plan;
 - The runoff will be contained with the 12” drainage pipe already on the property;
 - The northeast corner of the lot will also have a pipe to connect the two areas, so that the runoff is handled.

Mr. Yin has done drainage calculations, and they can comply with the development drainage requirements. Their calculations were done since the last meeting.

Chairman Conklin noted their statement that there would be no change in the drainage, but his question was how this will be accomplished, since the property will be raised 3’. Robert Adler, architect, was sworn in, and the board accepted his qualifications. He stated that their proposal for raising the grade was so they can comply with the high water line. If they followed the existing grade, too much of the foundation will be exposed. There is a 3’ elevation of 100’ distance for the purpose or aesthetics to conceal the foundation. This finished grade would run around to the south side as well. He stated it is a stable change to be landscaped with grass and able to absorb runoff, just as it would if it were level. The runoff will stay the same as it now occurs.

Mr. Bell noted that the property to the south is higher. Along the south property line they have extended the contours to provide a slope toward the west. They will provide an impervious surface around the patio area.

Mr. Brodsky noted that the property filled up after a heavy rain, and presumably now they will have a faster drainage to the southeast corner. Mr. Adler noted that the roof runoff will now be diverted, which does not now occur.

Chairman Conklin stated that the existing house is significantly smaller than the proposed house, and he thinks there will be more water flowing away from the front yard to the pipes. Mr. Yin said there is a slight increase in runoff to the southeast corner, and for two and ten-year storms, the increase in runoff was about a .54 difference. Chairman Conklin thinks there will be less grass and more water to be absorbed into the environment. Mr. Adler further explained the drainage, and Mr. Bell also explained the drainage as it now occurs, noting that some water at the corner does flow back on to the property. They could modify the basin to trap some of the water.

Ms. Heard stated that they still need to produce information regarding the seasonal high water table, and show they can meet the ground water recommendations.

Nancy Bormeman, speaking from the public, was sworn in and asked to see the drainage reports, and she was told she would be able to see any report submitted.

Neil Barone, next door neighbor to the north, was sworn in and said he was thrilled to know that this builder would be handling the project, as he has known him for a long time and knows he will take care of the drainage issues. He has complete faith in this developer to do things the right way.

There were no other questions or comments from the public.

Mr. Holzaple stated they would comply with all issues in the T&M letter.

William Brooks, Borough Forester, was sworn in and said he has visited the property several times. The grading around the Sweet Gum mentioned will be an issue, but he feels it can be resolved in a number of ways, which he proceeded to explain. The Red Maple is now a significant specimen tree, which can be removed. He is concerned with the amount of fill, which could be a problem for the existing trees, which may not survive. Also, the other significant specimen tree on Rumson Road will be protected, according to the applicant.

Mr. Holzaple was asked how they propose to protect the existing trees, and Mr. Bell stated they could modify the grading to address the issue of the protection of the trees. Mr. Brooks said they may be required to replace any trees that do not survive this grading (6 – 7 trees). Mr. Reilly said a condition could be imposed to say that they would replace any trees that die due to the project, and this may take a few years to determine.

Mr. Brodsky thinks that this may lead to more water reaching the southeast corner, and he wants to hear that this drainage system will be sufficient to handle this flow.

Ms. Heard said they need more information regarding this point, such as information to show they will not be impacting any of the surrounding properties or streets. Many different methods are available to accomplish this, and they will need to demonstrate their plan.

Mr. Yin explained how they would propose to reduce the amount of runoff. He showed the Board photos of the property at the southeast corner area of the drainage pipe. He explained the drainage in the area.

Mr. Blum observed that filling this property is the only long-term solution to the major drainage issues, and he explained the water issues in the area. The grading in the northeast corner is not a problem, in his opinion, and it is usually ½' to 1' in depth. Saving the Gum tree could be accomplished, but he is concerned about the water accumulating at the southeast corner, which has to be controlled. This needs to be treated as a major development, which mandates eliminating the increase of runoff. He does not have a problem with the proposal, since the major development standards should eliminate any additional runoff. They will need to show the final plan to show there is no change.

Chairman Conklin agrees with Mr. Blum and noted that the concept sometimes does not agree with what actually happens after construction. He agrees that the trees should be protected, also.

Mr. Thompson is not convinced that the plan will not increase the runoff and water issues on the property or meet the guidelines of the major development requirements. Mr. Holzapple said they will submit their plan to the Borough Engineer, and if it does not comply, they would need variance relief.

Mr. Duddy noted that this is a difficult area to build upon in the first place, but the owner has a right to his property. The water management is an issue, and adding fill may help to hold the water, although he is not qualified and they need to defer to the Borough Engineer to determine if they are satisfied with the claim that the water will not harm adjacent properties. The trees may be lost due to the amount of fill but they have said they will replace any that are lost. He would be happy to support the application, with the caveat that it meets all the requirements of a major development.

Ms. Heard said they may want to also provide an "as built" grading plan after it is completed, and Mr. Bell stated this is a requirement of any new construction before a CO is granted, and they would agree to do this.

Mr. Brodsky moved to approve the application, with the conditions a noted to agree to the major development regulations and conform to the tree mitigation plan, as per the town ordinance. Any significant change in the grading would cause them to come back before the Board. Dr. Wood seconded, contingent on all members approving the conditions of approval. Mr. Blum said if any major change occurs, the Board would need to see a revised plan,

Roll Call Vote: Ayes – Conklin, Seaman, Blum, Duddy, Wood, Brodsky

Nays – Thompson

Motion carried.

Atlantic Builders, LLC, 2 Buttonwood Lane (Continued Application)

Rick Brodsky, attorney, appeared again on behalf of this continued application. He reviewed their plan and deficiencies. As a result of the last hearing, a few revisions have been made to the plan involving the relocation of the pool, etc.

Robert Adler, architect, was sworn in, and the Board accepted his qualifications. He reviewed the changes:

- Courtyard has been increased by 4’;
- Pool has been moved away from the property line to accommodate the concern of the neighbor.

Mr. Yin, project engineer, was sworn in, and the Board accepted his qualifications. He reviewed the T&M letter and confirmed that the applicant understands they need to satisfy the standards of the major development conditions. Revised calculations will need to be submitted to meet these criteria.

Mr. Bell, planner, was sworn in, and the Board again accepted his qualifications. He testified to the relocation of the pool, noting that this new location allowed them to flatten out the grade. The pool will be approximately 3-4’ higher than the current grade. The incorporation of the dry wells was described, noting they have added one to the northwest and southwest sides of the dwelling to take in all the drainage. He recalculated the driveway and paver areas, which will be 1,700 sq. ft.

Mr. Adler stated that the calculations now adhere to the zone requirements. They will also submit soil boring information. The tree plan numbers have not changed. The specimen trees to be removed had been addressed at the last meeting, and no new specimen trees are slated for removal. William Brooks, Borough Forester, was sworn in and confirmed that nothing has been changed with regard to the trees from the prior hearing. The applicant will comply with the tree mitigation plan.

Ms. Heard, T&M Assoc., said they would need to resubmit calculations to comply with the major development standards, noting all the recharge and water quality requirements. The applicant said they will do this.

Linda Mallan, speaking from the public, was sworn in and stated she lives to the south of this property. She asked about dry wells, and Mr. Bell explained they are designed to handle roof run off, noting the direction of the flow into the dry well and how these wells handle this run off. Ms. Heard noted that a maintenance plan must be provided for these types of wells as part of the major development requirements.

There were no other questions or comments from the public.

Mr. Blum commented that the narrowness of the road can be difficult sometimes, and the design of the driveway could pose a problem. He suggested they look at this area to see if another arrangement could be provided. Mr. Andre said they are well under the lot coverage requirement, and they could take a look at this. Mr. Blum suggested perhaps some type of a “U” driveway could be more appropriate. Mr. Reilly stated that this would be a significant change.

They could submit this before the resolution is memorialized, if necessary. The applicant will agree to do this.

Mr. Duddy asked about an existing tree in the corner of the property, and it was noted that it is within the county right-of-way and not within the applicant's purview. Mr. Adler said they can prune the canopy to make the sighting better.

Mrs. Seaman thinks they have done a great job addressing the comments heard at the last meeting. She moved to approve the application, and Mr. Brodsky seconded.

Roll Call Vote: Ayes – Conklin, Seaman, Blum, Duddy, Wood, Brodsky

Nays - Thompson

Motion carried.

Ms. Heard left the meeting at this time (9:20 p.m.).

Mr. Cottrell rejoined the meeting at this time.

Michael & Perry Parkes, 34 Blackpoint Horseshoe

Mrs. Parks was sworn in, along with her landscape architect, Robert Howe, Jr. The Board accepted Mr. Howe's qualifications.

Mrs. Parks explained that she purchased the home one year ago and rebuilt it. They had a previously-approved plan (9/17/13), which they would now like to amend. They had removed the "U" driveway, and now they regret doing this and would like to put it back in. They would also like to add an in ground pool and spa. The pool is 18' x 36' in size. There is no decking proposed around the pool. The driveway is still there, but they now need approval to change this on their approved plan. No pool house is proposed. No new nonconformities will be created with this proposal.

Mr. Blum asked if any deck or patio was being proposed, and Mrs. Parkes said the pool will be surrounded by lawn.

There were no questions or comments from the public. Mr. Thompson moved to approve the application, and Dr. Wood seconded.

Roll Call Vote: Ayes – Conklin, Seaman, Blum, Duddy, Cottrell, Wood, Brodsky, Thompson

Nays - None

Motion carried.

Mr. Blum suggested continuing the condition from the 2013 resolution regarding the apron in the right-of-way, and Mr., Reilly said he will do this.

A short recess was taken at this time (9:30 p.m.).

Christopher & Elizabeth Neary, 36 First St.

Mrs. Neary was sworn in, along with her architect, Richard Velsor, whose qualifications were accepted by the Board.

Mrs. Neary explained their plan to add a 100 sq. ft. bathroom on top of the existing home. The floor area includes the house and the shed, which Mrs. Neary said they could remove, if necessary.

Mr. Velsor explained that they are attempting to sell the house, and they are adding a master bathroom and small closet space. All other nonconformities are pre-existing. The shed is on the property line, and this could be moved and made to conform. The house is over 100 years old, and there is no garage.

Chairman Conklin noted that the shed could be approved, but they would need five affirmative votes due to the floor area variance.

Mrs. Neary said they would be willing to move the shed to 5' off the property line, if they were allowed to retain it or replace it. This shed is less than 120 sq. ft. in size.

The bathroom is proposed for space over the kitchen area on the second floor.

There were no questions or comments from the public.

Mr. Thompson moved to approve the application, with the condition that the shed be replaced with a structure under 120 sq. ft. in size and made to conform to the 5' setback requirement. Mrs. Seaman seconded.

Roll Call Vote: Ayes – Conklin, Seaman, Blum, Duddy, Cottrell, Wood, Brodsky, Thompson
Nays - None

Motion carried.

Petcon Builders, LLC, 17 Edgewood Road

Michael Holzapple, attorney, appeared on behalf of the applicant. He explained their application to raze the existing house and construct a new, single-family residence, entirely conforming with no variances requested, except for the interior lot circle requirement (85' required / 43.5' provided). Their architect, engineer/surveyor, and planner are present for testimony. Robert Adler, architect, Charles Bell, planner, Choon Yin, engineer, were sworn in, and the Board accepted their qualifications.

Mr. Adler explained the design for the new house, which is a 5,000 sq. ft., single-family residence – traditional in style. They are well under all coverages, and no issues with ground water exist. There are no issues with trees, and they are providing a basement. There is no fill being introduced. The home is consistent with other homes in the neighborhood. Much of the square footage is in the garage area and dormers, which diminish the mass and volume appearance from the street. There is presently a ranch-style home on the property.

Mr. Bell stated that the existing grading on the site flows to the southwest on to Lot #12 toward Edgewood Rd. The new dwelling will be at the northeast corner, with a 4' cut in the grade. They propose an even slope toward the street. In the rear, they are proposing to grade the property toward the southwest corner and have two dry wells to take care of the roof drainage, and surface water will be channeled toward that location. This will ameliorate the current runoff, and 40-50% of the water will be going to a recharge area. There is no storm water

management required, according to Mr. Yin. This does not qualify as a major development, as the property is less than one acre in size.

Herb Kaiser, speaking from the public, was sworn in and asked about the garage, noting that the current garage faces east, and the proposed garage faces the west. Mr. Adler said this is due to the natural flow with the proposed house and the proposed grading. They do not think there will be any impact to the neighbor to the west, as this side is more consistent with the prior house.

Mr. Bell said existing trees on the neighbor's property will not be disturbed and will serve to buffer the garage area. The driveway will go toward Edgewood Rd.

There were no other questions or comments from the public.

Mr. Brodsky asked about the numbers on the plan for lot and building coverage, which do not seem to match up. Mr. Bell said this is a drafting error, and he will make sure this is corrected. He will submit a revised plan to show the correct numbers.

Mr. Brodsky asked if they proposed any type of plantings on the west property line, and Mr. Adler said they could plan buffer along this area. Mr. Brodsky said 2-3 trees in this area should be appropriate, and the Board discussed suggestions for the types and size. The applicant will agree to the suggestion of planting 6' Hollies.

Mr. Blum noted the major excavation that will take place in the northwest corner, and he mentioned an existing utility pole that may be impacted, as well as a sight issue in the corner near the driveway. He questioned if they comply with the minimum standards. Mr. Adler said the reason for the excavation is due to the steep slope in the street. Mr. Blum thinks this plan will destroy the aesthetics from the street. Mr. Bell said that the grade in the front of the house is 3' higher than the rear of the property. Mr. Blum again noted that they would need to meet the minimum site distance in the driveway. He likes the streetscape at present, and he thinks this plan will present a major difference. Mr. Bell said they might be able to pull the entrance off Edgewood farther to the east to open it up. Mr. Blum is not comfortable with the arrangement, but he knows it is not the Zoning Board's job to redesign a plan. Mr. Bell said some grading was done to the east that is similar to their plan.

Mr. Cottrell said he lives nearby to this property, and he agrees that the amount of earth movement needed to put in the driveway on the east will pose a tremendous impact on the street. He would rather see the orientation to the other way also, although he understands the topography of the street, as they mentioned. He also thinks moving this much dirt will be significant, and he would like to see this controlled. Mr. Bell said a silt fence will be provided during construction. Mr. Cottrell agrees with Mr. Blum that the current look and feel is attractive, and this plan will be an enormous amount of dirt movement.

Mr. Blum asked if they knew the amount of excavation required, and Mr. Bell said they did not have this exact figure. Mr. Blum thinks there will be a lot of excavation, and they will also be required to replace the utility pole. He also had additional suggestions for drainage.

Mr. Tsakiris, principal of Petcon Builders, was sworn in and said he respects Mr. Blum's comments, but feels he is wrong regarding the two side properties. He described the driveway areas mentioned, and explained how they will be keeping an existing retaining wall. They are not taking any trees out, although they will be relocating some. He feels their plan will give the property a normal front lawn, as opposed to the existing hill in the front. They cannot acquire any adjoining property to increase their interior lot shape. All surrounding properties are currently developed. The nonconformity in the circle requirement is existing, and there is no property available to improve this condition.

Mr. Bell, upon consulting with Mr. Tsakiris, suggested they could move the house to the east somewhat to eliminate the steep grade cut at the corner.

Mr. Cottrell understands their point that reorienting the entire front yard will make it have a more gradual slope. He agrees moving the home to the east would accomplish what they are trying to do and thinks it will look nice.

Chairman Conklin again asked the public if there were any other questions or comments, but none were heard.

Mr. Blum thinks the only technical issue is with the sight distance at the driveway, and moving it 20' would address this issue.

Mr. Cottrell agrees with the suggestion to move the house 20' farther to the east to provide a more gradual adjustment to the topography.

Mr. Thompson thinks it is a good compromise, and he applauds their efforts to save the trees.

Mr. Brodsky moved to approve the application, with the condition that the house be moved 20' to the east and three Hollies be planted on the west side for screening. Mrs. Seaman seconded
Roll Call Vote: Ayes – Conklin, Seaman, Blum, Duddy, Cottrell, Wood, Brodsky, Thompson
Nays - None

Motion carried.

There being no further business, motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous. The meeting was adjourned at 10:30 p.m.

The next meeting will be **November 18, 2014.**

Respectfully submitted,

Patricia Murphy
Clerk